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PDF PAGE 1, COLUMN 1
FRANK NEW TRIAL HEARING TO END
THIS AFTERNOON

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MR. ROSSER
NEARS

FINISH OF
TALK;

THEN UP TO
JUDGE

Judge Roan is Expected
to

Take Case Under
Considera-
tion and Withhold
Decision

Until Saturday,
Perhaps

ROSSER ATTACKS
HENSLEE

AND DERIDES MR.
DORSEY

“God Deliver Me From
Such

Sympathy!” He
Exclaims, of

Emotion Shown by
Juror

and the Solicitor
General

Emphatic denunciation of the state’s case against Leo M. Frank and all that appertained to it was the burden of Luther Z. Rosser’s speech Wednesday before Judge L. S. Roan. Attorney Rosser dwelt with emphasis upon the charge against Juror Henslee, and returned to that subject repeatedly with new comment. He ridiculed Henslee's affidavit that he wept when he voted “guilty” against Frank, and classed it with Solicitor Dorsey's emotion when the solicitor was polling the jury.

“God deliver me from sympathy like that,” said he. He declared that the defense is attacking the rabble at the trial, not the real people of the county; but that if the court house crowd

did represent the public whom Mr. Dorsey serves and defends. then Mr. Dorsey could take the public, for he himself wanted none of it.

Mr. Rosser still was speaking when court adjourned at 1 o'clock for an hour for lunch. He was to resume at 2 o'clock, and it was expected that he would finish during the afternoon.

It is not anticipated that Judge Roan will deliver an immediate decision. On the other hand, he very probably will take the case under consideration, and withhold his decision perhaps until Saturday.

It is anticipated in some quarters that Judge Roan will grants new trial. In the event, however, the judge decides with the state. the defense will take the case to the state supreme court on a bill of exceptions. If he grants the new trial, about five months will elapse before Frank again faces a jury, and that probably will be in another judicial circuit of the state.

DORSEY MAKES DENIAL

Solicitor Dorsey began, the proceedings, Wednesday, by referring to the publication in a morning newspaper that he had charged Attorney Arnold with deliberate falsehood. "I did not use the word," said the solicitor. "I didn't think it, and I don't see how that construction could be put on what I said. The deductions drawn in the newspaper article surprised and mortified me. This court heard my remark and knows that it was not properly capable of that construction."

Mr. Arnold spoke next, briefly: He said he had taken no offense even when he read the newspaper article to which Mr. Dorsey referred. When lawyers discuss their cases, said he, people often think they are dealing in personalities, when they are not, and often misinterpret what they say. "We will not burden this case with any personal controversies," said he. "Mr. Dorsey and I are friends. Sometimes we criticize the conduct of each other, as we have a right to do."

Attorney Luther Z. Rosser, who was to conclude all argument in the case, began then.

"Well, I want to join this peace conference," said he.

"Tis case is unique, and no man can deal with it unless he departs from ordinary paths. He must deal with the unique attitude of the state and of some of the state's witnesses and of the crowd. I am not going to say one word that is not justified by the record."

"Dorsey makes much complaint of our criticism of him and of his tactics and of the crowd—he whose speech was dripping with the idea that we should take all of this as calmly as a bride takes her flowers."

CAN'T BE CALM.

"If I didn't care anything about Frank or about the safety of our courts and of our institutions, I would take it all calmly. But I cannot. I have practiced law for thirty-four years, and I have never conscientiously taken an unfair advantage in any case; but at the

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**MR. ROSSER NEARS
FINISH OF
TALK:**

THEN UP TO JUDGE

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same time I have never failed to say what I thought should be said.

“The solicitor has said much about a slush fund and its influence; and that has been said without justification in the evidence. This case has been given the widest range and latitude. Mr. Dorsey himself has been allowed to testify as to the character of this man Johenning, who he would convince the people is a saint. Since we have gone so far and since the state has injected unfairly into this trial the idea that my brother Arnold and I have been bought, I want to say that it is utterly and piteously false. But despite that, I do not regret I am in this case. So far is it from the true fact, that I will say both Mr. Arnold and I are the poorer for this case.”

“I am willing to show my books to any fair-minded and honest man as evidence that this case has been a financial loss to me.”

My friend Dorsey has stressed what the people want as if the people are not being served in the highest and most sacred way of justice being done.

“When did the people ever cry out for blind vengeance? Never, I say. The charge is made that Mr. Arnold abused everything within reach. That is not Justified. I did not hear a word in Mr. Arnold's magnificent argument that was net Justified by the record. I do not know any criticism he made which is not justified.”

CRIES WHEN HIT.

“The man who is being criticized, when the criticism is founded upon truth, from time immemorial has been wont to cry out that he is being persecuted, vilified and abused. I have never failed to criticize when the criticism was founded upon truth and should be made.”

“What does Mr. Dorsey mean by the charge that Mr. Arnold criticized the whole state? Does he mean that those who crowded around the court house, crying for blood, are the ‘people’ he so cringingly serves? If they are the people, thank God I do, not serve them! There were some people there, but thank God they were not the real people, not the real public. Possibly some of the people there were impelled by mere idle curiosity. But others were there deliberately to scream with delight because the blood of a human being was about to be shed; and if those are the people whom Mr. Dorsey serves, then Mr. Arnold did criticize them.”

“When the question of admitting that filthy negro’s testimony was being argued in a calm and deliberate manner, and when your honor, thinking at the time it was your duty, turned this deluge of filth upon that refined man, some people cheered and cheered.”

“Is that the people who are all powerful, and whom Mr. Dorsey with other it did not compose the people:”

Mr. Rosser spoke at length upon the crowd's attitude, emphasizing his contention that all realized it the judge, and the police, and the newspapers.

“Does Dorsey think we were running a Sunday school picnic down there?”

“Possibly my friend Dorsey doubts that the jury was affected by that spirit. but no one else does, and I think Dorsey's senses must be blinded. He seems to think that the most sacred thing on earth is the verdict of a jury. Far be it from me to reflect upon the Jury system, but it is recognized. as having its weak points as well

as its strong points, and it falls when public passion and indignation run riot.”

HENSLEE STINKS, SAY ROSSER.

Mr. Rosser referred repeatedly to Juror Henslee, saying “he stinks.” He ridiculed Henslee's doubtful ballot, asking “if he was so convinced, why did he do that if not to trick the other jurors?” Henslee's affidavit explained that he cast the doubtful ballot in order to bring about a full and free discussion among the jury. Yet of the 100 pieces of documentary evidence, said the attorney, not one was examined by the jurors in the “full and free discussion” that followed.

He pointed to several places in the affidavit where, he charged, Henslee falsified. He read what Henslee swore about reading the newspapers during the first few days after the tragedy, where Gantt and Lee and Mullinax and Conley were all suspected, and of how he got tired then of reading so much and thereafter read only the headlines. “That is palpable falsity,” said Mr. Rosser, “for Conley was not accused until three weeks afterward.”

AND HEADLINES.

Mr. Rosser paid his respects to writers of newspaper headlines, saying that while stories usually try to tell the truth and do justice, “many outrages are perpetrated in the headlines.” To stop reading the smaller print and read only the headlines, said he, is like stopping the liquor habit to drink only absinthe. He called Henslee's doubtful ballot “a miserable, dirty farce.”

He commented on Henslee's Sworn statement that he wept when he cast his ballot of guilty. He likened that show of emotion to Mr. Dorsey's when the solicitor was polling the jury.

“Don't ever give me any sympathy like that,” said he, turning to Mr. Dorsey. “It's hard to believe that it was sympathy. I am afraid it was more joy. When his tirades against that helpless man and his wife and everyone else trying to save him had been

crystallized into a verdict of guilty, says he, his emotions overcome him with sympathy for the man's wife and family. God deliver me from such sympathy and such tears!"

"Isn't that criticism justified? You can afford to criticize even the state's counsel if what you say is the truth, without being a slanderer."

"Why is it none of the other jurors say Henslee wept?"

He spoke of the treatment of Minola McKnight as "as dirty a scheme as was ever concocted, who ever was responsible for it."

"Mr. Dorsey never did a more unworthy thing than when he charged little Miss Kern, one of the defense witnesses. with being a liar. She is as good as any woman he loves."

It was manifest Tuesday that the bitterness which attorneys for the defense have displayed in their arguments against the state is reciprocated by Solicitor, Dorsey, the prosecuting officer. Therefore, the solicitor had had little to say in reply to charges and insinuations spoken against him as a lawyer and a public officer by Frank's attorneys. On Tuesday he denounced Attorney Arnold's charges against him and the other officers of the prosecution as false. In retort he said that Mr. Arnold has lost his former eminence before this community in his profession as a lawyer, and that he cannot regain it until he pursues other methods than those which he has followed in the Frank case.

"Neither his whine nor his snort will do any good with the public which he has maligned," said the solicitor, 'for it knows whether the prosecution has been dirty and the defense clean."

The solicitor cited numerous authorities of law, but at times his remarks were sensational, particularly when he repeated his warning, uttered at the morning session, that to upset the Frank verdict will be to bring the courts and the administration of justice into greater contempt with the people than they are now.

If you are going to set aside verdicts on things like this. then it won't be a question of justice, but of who has the most

endurance and the wherewithal to carry on sufficient fight against the law.

“If this motion had not been filed by two such famous lawyers, your honor would not have devoted an hour to it,” said he.

Shortly before 5 o’clock the solicitor concluded, and Mr. Rosser arose.

“My brother Dorsey makes a mistake if he thinks I am going to approve all that he has done in this case, or that I will refrain from comment upon it,” said Mr. Rosser.

“Say anything you like,” said Mr. Dorsey.

“I always say mean things to people before their faces,” said Mr. Rosser, “and I’m going to do that in this case.”

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KNIGHTS OF PYTHIAS

TO MEET WEDNESDAY

Fifth Congressional District

Convention Will Be Held In

Kiser Building

Knights of Pythias from the Fifth congressional district will gather Wednesday at their hall in the Kiser building for the annual convention.

The exercises will start at 3 o'clock in the afternoon, when the organization meeting will be held and delegates from the different lodges in the district will present credentials.

The principal meeting of the convention will be a grand Pythian rally at 8 o'clock Wednesday night, and to this affair all Knights of Pythias, whether in good standing or not, are invited.

Among those who will deliver short addresses are Supreme Counsellor Thomas as J. Carlisle, of Macon; Past Master Milan, of Cartersville; Hamilton Douglas, past grand chancellor; Troy Beatty, grand prelate; Past Chancellor Shepard Bryan, Miller Bell, of Milledgeville, present grand chancellor; H. M. Stanley, of Dublin; Grand Vice Chancellor Joseph P. Smith, Past Grand Chancellor James W. Austin, Attorney Frank Hooper and Joseph A. Smith.

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An Evening in the Old South

The Halloween entertainment which will be given at the Hotel Ansley Friday evening will be under the auspices of the Uncle Remus Memorial association, and the patronesses include Mrs. A. McD. Wilson, Mrs. R. J. Lowry, Mrs. W. L. Peel, Mrs. E. L. Connally, Mrs. W. D. Grant, Mrs. John E. Murphy, Mrs. Spencer

Atkinson, Mrs. J. O. Wynne, Mrs. W. E. Foster, Mrs. S. W. Foster, Mrs. J. A. Perdue, Mrs. Fredi Paxon, Mrs. L. T. Stevens, Mrs. Victor Kreigshaber, Miss Katherine Wooten, Mrs. Lucian Harris, Mrs. Bolling Jones, Mrs. A. C. McHan, Mrs. A. P. Coles, Mrs. Fred Stewart, Mrs. William McCorley, Mrs. J. R. Mobley, Mrs. J. N. McEachern, Mrs. F. P. Heifner, Mrs. J. C. Greenfield, Mrs. W. D. Ellis, Mrs. W. B. Price Smith, Mrs. J. P. Orvill, Mrs. Arthur Powell, Mrs. Andrew Stewart, Mrs. Lyman J. Amsden, Mrs. Arthur Wilson, Miss Jessie Muse, Mrs. Woods White, Miss Evelyne Orme, Mrs. W. P. Pattillo, **Mrs. Luther Rosser**, Mrs. Sam D. Jones, Mrs. St. Elmo Massengale, Mrs. R. T. Connally, Mrs. John F. Purser, Mrs. H. G. Hastings, Mrs. David Woodward, Mrs. John J. Woodside.

Miss Louise A. Williams, the gifted young Georgian who has won the praises of the presidential family with old negro stories and songs, given at the White House, will furnish the principal part of the program, her repertoire to include "Mammy's Reminiscences of Christmas on the Old Plantation," darky ghost stories, old negro humor, old darky anecdotes, "A New Year Eve Ceremony," "Walkin' Egypt," and the songs "Mammy's Campmeeting Song," "Swing Low, Sweet Cha'ot," and "De Ole Sheep do Know de Road."

In addition to the stories and songs taken directly from the remnant left of the old darkies still living, true and ever interesting chronicles of the glory of the old south, Miss Williams will give "The Tar Baby Story," and "A Plantation Witch," from "uncle Remus."

In illustration of these in tableau vivante will be seen "Miss Meadows an' de Gals" in Joel Chandler Harris' conception of these, and "Old Uncle Remus and the Little Boy."

The stage will be appropriately decorated with Jack o' Lanterns and pumpkins, carrying out the Halloween idea.

Following Miss Williams' dialect impersonation of the faithful old mammy, twenty little tots will sing and dance "Mammy's Little

Shufflin' Dance," the children having been coached by Miss Steele, assisted by Mrs. Stewart.

Others taking part in the program will be Mrs. Grace Lee Brown Townsend and Mr. Tyre Jennings, who will sing, and Miss Marguerite Bartholomew, who will give several instrumental numbers.

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DORSEY ENDS WITH MO- TION; ROSSER TO ARGUE

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truth and do their full duty.

"I am not so sure but that the old English rule, to try a man and let it end there, without all these technicalities, is right, after all," said he.

EMOTION WAS GENERAL

He commented on Henslee's statement in his affidavit, that he (the juror) wept as he agreed to the verdict of guilty. as portraying the same depth of feeling which impressed all who were connected with the case at that momentous stage of it. He

himself felt it, said the solicitor, and it weighed heavily on him when Judge Roan told him to poll the jury. So profoundly impressed was he that he broke down in the act of asking the formal questions, and the judge had to come to his assistance. It was the first time he ever had polled a jury in Judge Roan's court, he said: and the fact that the judge instructed him to proceed with it indicated to his mind that the judge also was moved by the prevailing stress of emotion.

Attorney Hooper Monday afternoon discussed only the charge against Henslee as a biased juror, and the allegations that the verdict was affected by applause in court. He said the fact that Henslee got an order for eight buggies from Farkas in Albany on the day Fargas says he talked against Frank there, was proof on its face that Henslee did not say the things to Farkas which are now alleged. He paid a tribute to the Frank jury as "the finest and most intelligent body of men" he ever saw, and said it rendered its verdict "without fear in its heart or blood on its conscience." Mr. Hooper said the court of appeals has been charged with mistakes, but even if it has been making them it will stop soon when Judge Roan goes upon its bench. Judge Roan interrupted with a smiling protest.

JUDGE DISCLAIMS IT.

"I am afraid it will make more mistakes than ever, if I have erred 115 times in this one case," said the judge.

AFTERNOON SESSION.

At the afternoon session Solicitor General Dorsey, opposing the motion on behalf of Leo M. Frank for a new trial reverted to his warning that the verdict of conviction in the Frank case cannot be upset if the law is to be held in good esteem by the community.

"If you are going to set aside verdicts on things like this," said he, referring particularly to an affidavit by Sam Boorstein, a lawyer, and generally to the defense's charge that the jury's

verdict was biased, “then it won’t be a question of justice, but of who has the endurance and the wherewithal to carry on sufficient fight against the law.”

Boorstein’s affidavit which evoked the solicitor’s remark, alleges that one of the jurors in the box was looking out of the window while the crowd was cheering the verdict of guilty that had just been read.

The solicitor took up the charge that not only was the jury influenced by cheering and applause, but that it was tampered with by people who grabbed the jurors by the arms and said things to them.

“Not only are we—my friend Hooper, the city detectives, and I— conspirators for the purpose of suborning perjury, if one is to believe this motion, but every deputy sheriff and every bailiff attached to this court has failed in and neglected his duty.”

SOLICITOR LAUGHS.

Mr. Dorsey laughed.

“They have no defense in this case. They have no justification for this motion. They simply are beating about blindly in the dark, hoping that somehow something will fall into their bag.”

“A lawyer with a meritorious ground for a new trial stands on that ground and plants himself squarely there with all of his force.”

“There is no one ground in this entire motion with the semblance of merit in it.”

“And if the motion had not been brought by two such famous lawyers, your honor would not have devoted an hour to it.”

Referring to the affidavit presented by one of the other jurors, for the state's side, that Henslee cast the doubtful ballot in the first vote of the jury, Mr. Dorsey declared that it would be a violent presumption to follow Mr. Arnold “in his wild ramblings”

and old that Henslee cast that doubtful ballot as part of a deep-laid plot in his own mind to see that Frank was convicted.

Mr. Dorsey praised Juror Johenning, also attacked by the defense, saying that he knows Johenning personally and that there is not a man in the county more honest or conscientious than he.

“No wonder the courts are getting into contempt with the people when a man like Johenning is attacked just because at a great inconvenience to him elf he did his public duty as a juror.”

“If you put your stamp of approval upon these bias and prejudiced allegations, we certainly should prosecute these two men for perjury; for if the charges of the defense are true, I know of no one who would more richly deserve punishment than they.”

With reference to the defense’s argument that because crowds outside cheered when they heard the jury’s verdict a new trial should be granted, Mr. Dorsey said:

“The courts might as well go out of business, then. They might as well hold star chamber proceedings where the people would not know what was going on and couldn’t find out what was going on, if you are going to upset a verdict because it was rendered under conditions like that. Criminals could do as they do in France—hire a lot of clackers and at a given signal set them loose with an uproar which would overthrow the court’s verdict.”

Regarding the charge that the jury was intimidated into a verdict of guilty, he demanded:

“Did anything happen in this whole case, in the presence of the jury or out of its presence, that could be compared to trials under protection of the militia such as we have had repeatedly in Georgia?”

Mr. Dorsey cited a number of authorities to the effect that evidence of other crimes can be introduced at a trial on one crime if that evidence tends to show motive.

From the standpoint of law, said he, Mr. Arnold has made no issue for him to combat. All that is included in the motion has been passed upon in deliberate judgment by the court, said he.

He said that he was sorry Mr. Arnold, who had not attended the session at all on Tuesday, was not present to hear what he was going to say. He wanted Mr. Rosser to repeat it to Mr. Arnold, said he. Mr. Rosser interrupted to say that he wasn't carrying any messages.

"He has charged me with many high crimes and misdemeanors," said Mr. Dorsey. "He has charged many high crimes to the detectives. Your honor knows that those charges are false and I am not going to dignify them further by specific denials. I take this occasion, however, to offer a suggestion to Mr. Arnold: that he take some dose which will relieve him of his spleen."

"Never again can he occupy the same high place in his profession and in the Community he once held, unless he pursues other methods than those he has followed in this case. Neither his whine nor his snort will do any good with the public he has maligned—for it knows whether the prosecution has been dirty and the defense clean. It is most preposterous to assume that the detectives were corrupt, that I am corrupt, that the public has lost its head and your honor has lost yours and the jury perjured itself."

Mr. Dorsey concluded just before 5 o'clock.

As court was about to adjourn on Wednesday morning, Mr. Rosser said: "My brother makes a mistake if he thinks I am going to approve of all that he has done in this case, or that I will refrain from comment upon it."

"Say anything you like," invited Mr. Dorsey.

"I always say mean things to people before their faces," retorted Mr. Rosser, "and I'm going to do that in this case."

Court adjourned at 5 o'clock until 9 o'clock Wednesday.
